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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,701	05/23/2001	Frank Fiedler	LWEP:101_US_	9875

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EXAMINER

PARSONS, CHARLES E

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 08/12/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,701

Applicant(s)

FIEDLER, FRANK

Examiner

Charles E Parsons

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-11 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2 and 5-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarzmman in view of Clinch (art provided in PCT prior art search).

Claim 1, 7, 9, 11: A method for coding live images in microscopy, comprising the following steps:

- a) recording a first complete image (25,) that depicts a portion of a microscopic preparation (See Schwarzmman column 4 lines 56-57)
- b) generating a first coded complete image (200) in a coding element (21); (See Schwarzman column 4 lines 58-59)
- d) outputting the first coded complete image (251); (See Schwarzmman column 4 lines 61-63)
- e) recording a second complete image (252) that is offset with respect to the preceding complete image in a plane defined by an X-Y stage (12); (See Schwarzmman figure 3 as well as column 9 lines 5-11)
- f) transferring the coordinates of the portion of the second complete image (252), and further control data, to a control data decoder (30); (See column 11 lines 23-30)
- g) generating at least one coded partial image utilizing the data from the control data decoder (30); (See column 9 lines 12-19)
- h) generating an assembled and coded complete image (210) in an image assembler (32), using the at least one coded partial image (220) and the preceding coded complete image located in the buffer memory (27); (See column 9 lines 27-33)

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i) outputting a second assembled and coded complete image (210), the assembled and coded complete image (210) also being additionally stored in the buffer memory (27);

(See column 9 lines 15-19) and

j) recording further images, steps f) through i) being repeated for each further image.

(See Schwarzmans column 10 lines 3-12)

c) storing the first coded complete image in a buffer memory (27) (While Schwarzmans is not specific as to the intricacies of his buffering of image data, at the time the invention was made it was well known to those of ordinary skill in the art that once an image is captured it must be buffered in order to further process the image. See Clinch column 4 lines 11-20. Therefore it would have been obvious to one of ordinary skill in the art, to buffer image data motivated by the fact that it must be buffered for further processing.)

Claim 2, 8: The method as defined in Claim 1, characterized in that a coded partial image (220) is output at a second output (222) of the coder (21). See Schwarzman figure 1 items 3 and 4 showing a first and second output.

Claim 5. The method as defined in Claim 1, characterized in that coded complete images (200, 210) are transmitted to a remote station, a decoded complete image being generated at the remote station. (See Schwarzmans column 5 lines 13-19)

Claim 6, 10. The method as defined in Claim 5, characterized in that at least one coded partial image is transmitted to the remote station, an assembled decoded complete image being generated at the remote station. (See Schwarzmans column 9 lines 4-33 clearly any image necessary for the montage must be transmitted to the remote station for viewing.)

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Allowable Subject Matter

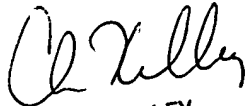
1. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The three separate outputs one for the complete coded image, one for the assembled image and one for the partial image was not found in a prior art search nor considered obvious by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E Parsons whose telephone number is 703-305-3862. The examiner can normally be reached on M-TH 7AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CEP


CHRIS KELLEY
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